

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	
v.)	CAUSE NO.: 2:14-CR-129
)	
ETHEL SHELTON,)	
Defendant.)	

OPINION AND ORDER

This matter is before the Court on an order from the Seventh Circuit Court of Appeals for a new determination of Defendant Ethel Shelton’s request to appeal her two felony convictions *in forma pauperis*.

Under the Criminal Justice Act, which governs Shelton’s request, “[r]epresentation shall be provided for any financially eligible person who— (A) is charged with a felony” 18 U.S.C. § 3006(A). That is, “the Criminal Justice Act asks only if the defendant is ‘financially unable’ to obtain adequate representation.” *United States v. Durham*, 922 F.3d 845, 847 (7th Cir. 2019).

Shelton filed the affidavit required under Federal Rule of Appellate Procedure 24(a). In that affidavit, Shelton lists her household’s monthly income—all of which comes from retirement—as being over \$1,000 more than her household’s monthly expenses. She further states that she has spent or will be spending \$5,000 for expenses or attorney fees in connection with this lawsuit.

On January 17, 2020, the Federal Register published notice of the Department of Health and Human Service’s 2020 Poverty Guidelines. Annual Update of the HHS Poverty Guidelines, 85 Fed. Reg. 3060-61 (Jan. 17, 2020). Shelton’s household monthly income is approximately 450% of the 2020 guidelines amount for a household the size of Shelton’s.

In her request to appeal *in forma pauperis*, Shelton states that “[she] and her family have exhausted their resources in the District Court and seek continued representation in the Court of Appeals.” (Mot. ¶ 4, ECF No. 308). On the information before the Court, Shelton’s household has over \$1000 of income each month that is not directed toward any particular expense. She has spent (or will spend) \$5,000 thus far on her retained counsel. The actual or approximate cost of Shelton’s appeal (or even her attorney’s hourly rate) is not before the Court. There is also no record of whether the resources spent by Shelton’s family are encapsulated in the \$5,000 amount or whether the family’s contribution is in addition to this amount.

On the information provided and the statements made in her motion, the Court determines that Shelton is financially able to retain counsel.

SO ORDERED on January 21, 2020.

s/ Joseph S. Van Bokkelen
JOSEPH S. VAN BOKKELEN, JUDGE
UNITED STATES DISTRICT COURT

cc: Seventh Circuit Court of Appeals